

# HOUSE . . . . No. 1808

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, May 27, 1943.

The committee on Municipal Finance, to whom was referred the Bill relative to liens for real estate taxes (House, No. 1759), report that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 1808).

For the committee,

LAWRENCE H. DAVIS.

## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Forty-Three.

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AN ACT RELATIVE TO LIENS FOR REAL ESTATE TAXES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter sixty of the General Laws is  
2 hereby amended by striking out section thirty-seven,  
3 as most recently amended by chapter eighty-four of  
4 the acts of nineteen hundred and forty-one, and  
5 inserting in place thereof the following: —

6 *Section 37.* Taxes assessed upon land, including  
7 those assessed under sections twelve, thirteen and  
8 fourteen of chapter fifty-nine, shall with all incidental  
9 charges and fees be a lien thereon from January first  
10 in the year of assessment. Except as provided in  
11 section sixty-one, such lien shall terminate at the  
12 expiration of two years from October first in said  
13 year, if the estate has in the meantime been alienated  
14 and the instrument alienating the same has been  
15 recorded, otherwise it shall continue until a recorded  
16 alienation thereof; but if while such lien is in force a  
17 tax sale or taking has been made, and the deed or  
18 instrument of taking has been duly recorded within  
19 sixty days, but the sale or taking is invalid by reason  
20 of any error or irregularity in the proceedings sub-  
21 sequent to the assessment, the lien and also the lien or  
22 liens for any subsequent taxes or charges which have  
23 been added to the tax title account under authority

24 of section sixty-one shall continue for ninety days  
25 after a surrender and discharge under section forty-  
26 six or a release, notice or disclaimer under sections  
27 eighty-two to eighty-four, inclusive, has been duly  
28 recorded, or for ninety days after the sale or taking  
29 has been finally adjudged invalid by a court of com-  
30 petent jurisdiction. If at any time while a lien estab-  
31 lished by this section is in force, a sale or taking cannot  
32 in the opinion of the collector be legally made because  
33 of any federal or state law or because of any injunction  
34 or other action of, or proceeding in, any federal or  
35 state court or because of the action of any administra-  
36 tive body, the lien shall, if the statement provided  
37 for in section thirty-seven A is filed, continue as pro-  
38 vided in said section thirty-seven A, subject, however,  
39 to any lawful action under any paramount authority  
40 conferred by the constitution or laws of the United  
41 States or of the commonwealth. Said taxes, if unpaid  
42 for fourteen days after demand therefor, may, with  
43 said charges and fees, be levied by sale or taking of  
44 the real estate, if the lien or liens thereon have not  
45 terminated. No tax title and no item included in a  
46 tax title account shall be held to be invalid by reason  
47 of any error or irregularity which is neither substantial  
48 nor misleading, whether such error or irregularity  
49 occurs in the proceedings of the collector or the  
50 assessors or in the proceedings of any other official  
51 or officials charged with duties in connection with the  
52 establishment of such tax title or the inclusion of  
53 such item in the tax title account.

1 SECTION 2. Said chapter sixty is hereby further  
2 amended by inserting after section thirty-seven, as  
3 amended, the following new section: —

4 *Section 37A.* If at any time while a lien estab-

5 lished by section thirty-seven of this chapter or under  
6 chapter eighty or chapter eighty-three is in force, a  
7 sale or taking cannot in the opinion of the collector be  
8 legally made because of any federal or state law or  
9 because of any injunction or other action of, or  
10 proceeding in, any federal or state court or because  
11 of the action of any administrative body, the collector  
12 may file with the register of deeds for record or  
13 registration, as the case may be, a statement reciting  
14 that the statement is filed pursuant to this section to  
15 continue, until abatement or payment, the lien for a  
16 tax or assessment in an amount stated, which need  
17 not include accrued interest and costs, assessed for a  
18 year or on a date specified to a person or persons  
19 named upon an estate described. The statement  
20 shall also recite the reason why, in the opinion of the  
21 collector, a sale or taking cannot then be legally  
22 made; but any error or omission in the recitation of  
23 such reason shall not affect the validity of such state-  
24 ment. The register of deeds as such or as assistant  
25 recorder of the land court shall receive and record or  
26 register such statement upon the payment of a fee  
27 of one dollar which shall be paid by the town, but  
28 which shall not be added to or become part of the  
29 unpaid tax. The filing of such statement for record  
30 or registration shall operate to extend the time within  
31 which a sale or taking may lawfully be made by con-  
32 tinuing until payment or abatement of the lien for  
33 such tax or assessment and all assessments or portions  
34 thereof, rates and charges of every nature which have  
35 been added to or become a part thereof; but the  
36 filing of such statement shall not discharge the collec-  
37 tor from liability upon his bond for failure to collect  
38 such tax, assessment or portion thereof, rate or

39 charge, and the collector shall proceed to sell or take  
40 the land within six months after he first gets notice  
41 that the disability has been removed. The collector  
42 at any time may, and upon the payment or abate-  
43 ment of the tax to which such statement relates shall,  
44 file a renunciation of all rights under such statement;  
45 and the provisions relative to the recordation of such  
46 statement shall apply to the recordation of such  
47 renunciation.

1 SECTION 3. Section twenty-three of said chapter  
2 sixty, as most recently amended by section one of  
3 chapter one hundred and ninety-seven of the acts of  
4 nineteen hundred and thirty-two, is hereby further  
5 amended by adding at the end the following new  
6 sentence:— A certificate issued on or after October  
7 first, nineteen hundred and forty-three under this  
8 section may be filed for record or registration, as the  
9 case may be, within thirty days after its date, and if  
10 so filed shall operate to discharge the parcel of real  
11 estate specified from the liens for all taxes, assess-  
12 ments or portions thereof, rates and charges which  
13 do not appear by said certificate to constitute liens  
14 thereon, except the taxes, assessments or portions  
15 thereof, rates and charges which have accrued within  
16 the three years immediately preceding the date of the  
17 certificate, the taxes, assessments or portions thereof,  
18 rates and charges which are included in a tax title  
19 account, and the taxes, assessments or portions thereof,  
20 rates and charges concerning which a statement has  
21 been filed for record or registration under section  
22 thirty-seven A of this chapter or section forty-two B  
23 of chapter forty or any other provision of law; but a  
24 certificate issued under this section shall not affect

25 the obligation of any person liable for the payment  
26 of any tax, assessment, rate or charge. The register  
27 of deeds as such or as assistant recorder of the land  
28 court shall receive and record or register such certifi-  
29 cate upon the payment of a fee of one dollar.

1 SECTION 4. Chapter eighty of the General Laws  
2 is hereby amended by striking out section twelve, as  
3 most recently amended by section one of chapter  
4 two hundred and fifty-two of the acts of the current  
5 year, and inserting in place thereof the following  
6 section: —

7 *Section 12.* Assessments made under this chapter  
8 shall constitute a lien upon the land assessed. The  
9 lien shall take effect upon the recording of the order  
10 stating that betterments are to be assessed for the  
11 improvement. Except as otherwise provided, such  
12 lien shall terminate at the expiration of two years  
13 from October first in the year in which the assessment  
14 is first placed on the annual tax bill under section  
15 thirteen or, if an assessment has been apportioned,  
16 from October first in the year in which the last portion  
17 is so placed upon the annual tax bill, whichever is later,  
18 if in the meantime in either case the estate has been  
19 alienated and the instrument alienating the same has  
20 been recorded. If there is no recorded alienation  
21 within such period, the lien shall continue until  
22 there is a recorded alienation. If the validity of an  
23 assessment made under this chapter is called in ques-  
24 tion in any legal proceeding to which the board which  
25 made the assessment or the body politic for the  
26 benefit of which it was made is a party, instituted prior  
27 to the expiration of the lien therefor, the lien shall  
28 continue until one year after the validity of the assess-

29 ment is finally determined, even though an alienation  
30 be recorded in the meantime. If at any time while a  
31 lien established by this section is in force, a sale or  
32 taking cannot in the opinion of the collector be legally  
33 made because of any federal or state law or because  
34 of any injunction or other action of, or proceeding in,  
35 any federal or state court or because of the action of  
36 any administrative body, the lien shall, if the state-  
37 ment provided for in section thirty-seven A of chapter  
38 sixty is filed, continue as provided in said section  
39 thirty-seven A, subject, however, to any lawful action  
40 under any paramount authority conferred by the  
41 constitution or laws of the United States or of the  
42 commonwealth. If the time for payment of an  
43 assessment is extended under section thirteen A; the  
44 lien shall if the statement provided for in section  
45 thirty-seven A of chapter sixty is filed, continue as  
46 provided in said section thirty-seven A.

